

Ms Jennifer Ashworth
North Lincolnshire Council
Planning Department
Civic Centre
Ashby Road
Scunthorpe
DN16 1AB

Our ref: AN/2025/136849/01-L01
Your ref: PA/2025/720
Date: 30 July 2025

Dear Madam

**Application to vary Condition 21 of PA/2015/1264 dated 01/02/2016 (previously varied by PA/2009/0600 dated 10/06/2013) to facilitate construction within the consented area
Land off Skitter Road, East Halton**

Thank you for consulting us on the above application on 15 July 2025.

We have reviewed the application and we **object** to the variation of Condition 21 for the reasons explained below.

The original application (PA/2009/0600) and the subsequent application (PA/2015/1264) on which this condition was imposed were determined with regard to the local and national planning policy in force at that time. The direction of flood risk policy currently in force retains the same principles as the superseded policy, i.e. that development must be safe for its lifetime taking into account the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

You will be aware that at the time of the original application, the Environment Agency had no plans to maintain (or improve) the existing flood defences behind which this proposed development is situated. The Environment Agency's position remains the same to this day. Although we have undertaken some interim maintenance measures (using our permissive powers) to allow the Applicant more time to organise the required defence improvement works, these are still to be formally secured.

Our previous responses to this application set out how it was not economically justifiable for us to maintain this line of defence, as stated in the Humber Flood Risk Management Strategy 2008. Our alternative option to protect existing third parties in the flood cell at that time was to construct a cross bank, which this proposed development would have prevented. Therefore, to manage the flood risk in the flood cell and comply with planning policy, the defences needed to be improved as part of this proposed

development. The Flood Risk Assessment (FRA) supporting the application (on page 16) committed to this stating “*The developer in consultation with the Environment Agency, will agree a strategy to allow maintenance or appropriate infrastructure to defend the site throughout its lifetime*”. This strategy has still not been agreed.

The Environment Agency requested that a condition be imposed preventing the commencement of any development in Flood Zone 3 until the construction of the sea wall and associated sea wall works have been completed. The Council did not strictly follow this request but did impose Condition 21 preventing “the erection of a building” in Flood Zone 3 - it was our view that the Applicant should enter into a legal agreement under Section 30 of the Anglian Water Authority Act 1977 to ensure the improvements to the sea defences were delivered prior to the commencement of any development in the flood zone. The Applicant did not enter into the legal agreement, but it was hoped the condition would achieve the same outcome. This was (and still is) required to ensure that the improvements are made to the sea defences, and the development complies with planning policy. Again, the FRA acknowledged the necessity of this stating that “*Maintenance works (or replacement infrastructure) will be required over the next twenty years to maintain an appropriate factor of safety*”.

In addition to this development site, to the south, there is also a large port facility, a single residential property and agricultural land at risk of tidal inundation. If you allow the variation of Condition 21 and the required improvements to the defences are not secured, this would put these properties at increased risk of flooding – we request that you give due consideration to this when determining the application.

Currently (prior to the sea defences being improved and the development taking place), we propose to maintain the front line of defences using our permissive powers, although this cannot be guaranteed in the longer term. The condition of the defences is currently considered to be adequate but deteriorating. If overtopped, the development site, without the buildings being constructed, provides for attenuation of floodwater, which reduces risk to the existing development to the south.

Without improving the defences to keep pace with climate change, the presence of the development means that flood water cannot be attenuated to the same degree, and so there will be an increased risk to the existing development to the south. Without the improvements, there would be an increased risk of breach of the defences directly opposite the development site, but also from floodwater flowing towards the site from the north of the East Halton Drain. It is our view that Condition 21 should not be amended and the improvements to the sea defences are delivered to prevent an increased risk to third parties. Amending the condition will change the risk profile of the development and will not deliver the commitments made in the FRA.

There is currently no allocated grant-in-aid funding to explore whether there are alternative options to protect this existing development. There is already uncertainty on the future flood protection of the proposed and existing development, which will only worsen with the expected impacts of sea level rise due to climate change.

The supporting statement submitted by the applicant has not given further reasoning beyond the fact that the development cannot wait 3 years for the sea defence improvements to be undertaken. Planning conditions are only imposed where they satisfy the tests listed in the Planning Practice Guidance (Paragraph: 003 Reference ID: 21a-003-20190723), i.e. necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise, and reasonable in all other respects. Condition 21 was judged to meet all these tests when it was imposed, and there appears to be no

justification for drawing an alternative conclusion now, as the need for the defence improvements remains (and has increased) to protect the development and third parties.

If you are minded to approve the application contrary to our objection, we request that we are re-notified, for you to explain which material considerations outweigh the objection and to give us the opportunity to make further representations.

Should you require any additional information, or wish to discuss these matters further, please do not hesitate to contact me at the number below.

Yours faithfully

Annette Hewitson
Principal Planning Adviser

